IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 24859 of 2004

Between:

S.Rajeswar S/o.S.W.Swamy H.No.11-3-406,Nampally,Hyderabad

..... PETITIONER

AND

1 The Joint Trasnport Commissioner & Secretary, Regional Transport

Authority, Hyderabad.
2 The Regional Transport Officer, Regional Transport Authority,

Hyderabad West Zone.
3 The Motor Vehicle Inspector, Regional Transport Authority, Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, especially, one in the nature of Writ of Mandamus declaring the proceedings in P.No.216019/B4/HC/2004 dt 6-12-2004 issued by the 1st respondent and the notice in proceedings No.2082/A6/HW/2004 dt 16-12-2004 issued by the 2nd respondent as illegal, arbitrary and violative of Article 14,16 &19(1)(g) of the Constitution of India and set aside the same and further declare the action of the 1st and 2nd respondents in not releasing the petitioner's vehicle bearing No.ATR 4179 is also illegal and arbitrary.

Counsel for the Petitioner: MR.CH.RAVINDER

Counsel for the Respondent No.: GP FOR TRANSPORT

The Court made the following :

ORDER:

The petitioner questions the order dated 6.12.2004 of the first respondent herein in dismissing the appeal filed by him as illegal and arbitrary and sought direction for releasing the vehicle bearing No.ATR 4179 in his favour.

It is stated that the petitioner is the owner of the said goods vehicle and during the first week of January, 2000 it developed major repairs. The petitioner kept the vehicle idle at his residence and he could not attend on the repairs due to financial stringency. After securing some money, he sent the vehicle to the mechanic shed for repairs in the month September, 2001. While the mechanic was taken the vehicle on trial run, it was seized by the 3rd respondent vide vehicle check report No.651986 dated 26.12.2001 for non-payment of tax for the quarter ending 31.12.2001 and for not producing the registration certificate, certificate of driving licence, insurance certificate etc. It is stated that he came to know through a notification published in the Deccan Chronicle on 24.8.2004 that the vehicle is sought to be auctioned for realization of arrears of tax. Therefore, he has filed an appeal before the first respondent on 6.10.2004 and he was orally directed to deposit the sum of Rs.25,000/- for stopping the auction. Accordingly, the petitioner has deposited the said amount of Rs.25,000/- on 9.10.2004 and the proposed auction was stopped. Ultimately, the said appeal was dismissed by the first respondent by proceedings dated 6.12.2004 in one line order without giving any reasonable opportunity to the petitioner. It is stated that the petitioner has to pay only the sum of Rs.15,438/- towards tax.

It is not in dispute that pending disposal of the appeal before the first respondent, the petitioner paid the sum of Rs.25,000/- and the total tax payable is only Rs.15,438/- and the penalty thereon is Rs.30,870/-. But the first respondent while dismissing the appeal has not taken into account the payment of the sum of Rs.25,000/- pursuant to

the order of the 2nd respondent. Therefore, I am of the opinion that the impugned order is based without taking note of the payment of Rs.25,000/- and without giving any reasonable opportunity to the petitioner. Accordingly, the impugned order is set aside and the first respondent is directed to issue notice to the petitioner and after giving reasonable opportunity pass appropriate orders in accordance with law.

The writ petition is disposed of accordingly. No order as to costs.

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(V.ESWARAIAH, J.)

1.4.2005

kpr

To

1 The Joint Trasnport Commissioner & Secretary, Regional Transport

Authority, Hyderabad.
2 The Regional Transport Officer, Regional Transport Authority,

Hyderabad West Zone.
3 The Motor Vehicle Inspector, Regional Transport Authority, Secunderabad.

4. 2 copies to the Govt. Pleader for Transport, High Court buildings,

Hyderabad.

5. 2 C.D. copies